

Application Serial Number: 09/595,043
Docket No.: VAS-5512
Replacement for Preliminary Amendment in RCE

REMARKS

Prior to the present Amendment claims 1-34 were withdrawn or cancelled without prejudice, claim 47 was withdrawn by the Examiner and claims 35-46 and 48-71 remained pending.

In the Office Action, the Examiner rejected claims 53-58 and 69-70 under 35 U.S.C. 112, rejected claims 35-41, 43-44, 50-52, 59-63, 66-68 and 70-71 under 35 U.S.C. 102(b) as being anticipated by Frid (WO 98/31303) and rejected claims 35, 45-56, 59 and 64-65 under 35 U.S.C. 102(e) as being anticipated by Cox et al. (5,824,040). Also, the Examiner rejected claims 48-49 under 35 U.S.C. 103(a) as being unpatentable over Frid in view of Kleshinki (5,755,778) and claim 42 as being unpatentable over Frid in view of White et al. (WO 95/08966).

By the present amendment, Applicants have amended claims 35, 53, 54, 59 and 69 and cancelled claims 39-41, 63 and 70. Therefore, claims 35-38, 42-62, 64-69 and 71 remain pending. All pending claims are believed to be in a condition for allowance.

35 USC 112 Rejection

Claims 53, 54 and 69 are amended to clarify the meaning of those claim to correct typographical errors and inadvertent misdescriptions that were properly pointed out by the Examiner. Claim 70 is cancelled.

35 USC 102 and 103 Rejections

The newly amended independent claims 35, 54 and 59 are patentable in light of all cited references because neither of the cited references alone or in combination teach or even suggest a combination of features as claimed in the amended claims. In addition to other features, the newly amended independent claims require that "at least a part of the length of one of the first and the second tubular graft body portions is self-expanding while the remaining length of the same tubular graft body portion is balloon-expandable." An explanation of the benefits of such feature is specifically provided on page 6 lines 10-19 of the specification of the present patent application.


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The Examiner on page 4 of the outstanding Office Action states that Frid teaches that the grafts "can be both self-expanding and balloon expandable." In support of this statement, the Examiner relies on page 17, lines 20-23 of Frid. Please note, however, that all embodiments disclosed in Frid teach a self-expanding graft and the Frid's statement on page 17 at lines 20-23 simply provides that instead of being "self-expanding," the endoprosthesis of Frid's invention could be "plastically deformable" for use with balloons. Such a statement by no means provides a teaching of a combination prosthesis containing a portion that is self-expanding and a portion that is balloon-expandable. Frid does not provide even a lightest suggestions of such a structure or reason for desirability of such structure. Neither do the remaining cited references. For this reason alone all independent claims 35, 54 and 59 are patentable, and therefore, all remaining claims dependent from claims 35, 54 and 59 are also patentable at least by virtue of their dependency from the patentable independent claims.

To summarize, Applicants respectfully submit that all currently pending claims are allowable and request a favorable action on this matter. If the Examiner has any questions or remaining issues to discuss that could be effectively resolved over the telephone, Applicants respectfully request that the Examiner contacts the undersigned by telephone for speedy resolution of any such issues or questions.

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Respectfully submitted,


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